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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/453,763	12/02/1999	MOTOKI KATO	450100-02054	3027

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EXAMINER

NGUYEN, HANH N

ART UNIT	PAPER NUMBER
2662	

DATE MAILED: 08/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/453,763

Applicant(s)

KATO, MOTOKI

Examiner

Hanh Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on Application filed on 12/2/99.
- 2a)  This action is **FINAL**.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-70 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-12, 14-18, 20-55 and 57-70 is/are rejected.
- 7)  Claim(s) 13, 19 and 56 is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-12, 14-18, 20-37, 41, 45-55 and 57-67 are rejected under 35 USC 102(e) as being anticipated by **Takeda et al.** (US Pat. No. 6,587,477 B1).

In claims 1, 6, 11, 17, 23, 30, 37, 41, 45, 49, 54, 60 and 67, **Takeda et al.** discloses, in Fig.1, a transmitting apparatus 124 receives an MPEG transport stream (receiving a data stream) from a turner 126. Bandwidth detection means 101 detects a leak rate (a maximum bit rate) included in the transport stream (obtaining a maximum bit rate). See col.11, lines 7-10. A necessary bandwidth is calculated by a means 102 ( setting the transmission bandwidth) based on the leak rate (maximum bit rate) of the transport streams before transmitting to a receiver 125.

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See col.10, lines 45-55. The receiver 125 receives the transport streams attached with the necessary band with from the transmitting medium 114 (outputting the data stream within the set bandwidth). See col.10, lines 55-60. In the receiver 125, the transport stream included in data 122 is recorded at a recording apparatus 128 or reproduced into video/audio signals at reproducing apparatus 129 (recording and reproducing the data streams with the attached maximum bit rate). See col.13, lines 1-5.

In claims 2, 7 and 50, **Takeda et al.** discloses, in Fig.1, data 108 is MPEG2 transport stream received at transmitting apparatus 124 ( data stream conforms to a MPEG standard). See col.10, lines 22-27.

In claims 3, 8, 28, 35, 51 and 65, **Takeda et al.** discloses in, col.1, lines 55-65, that when a broadcast signal is received, a specific stream is selected and recorded (data stream is a partial transport stream).

In claims 4, 9 and 52, **Takeda et al.** discloses the transmitting medium 114 is a IEEE P1394 high speed interface used to transport data stream (IEEE 1394 digital interface standard). See col.2, lines 35-40.

In claims 5 and 10, **Takeda et al.** discloses, in Fig.1, that transmission means 107 transmits bandwidth information showing a leak rate (outputting means for outputting information indicative of maximum rate). See col.12, lines 10-15.

In claims 12, 18 and 55, **Takeda et al.** discloses, in Fig.1, a data processing means 130 (means for providing control information).

In claims 14, 15, 20, 21, 25, 26, 32, 33, 46, 47, 57, 58, 62 and 63, **Takeda et al.** discloses the received stream is stored in the buffer and is read from here at the leak rate (recording

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apparatus output leak bit rate). See col.1, line 65 to col.2, line 3. The buffer has a size expressed in the data stream (leak buffer size).

In claim 48, the limitation of this claim has been addressed in claim 1.

In claims 24, 31 and 61, **Takeda et al.** discloses, in Fig.12, a smoothing buffer 21 is included in processing means 130 and 118 respectively stores received transport stream packet (buffer means for storing received data streams). See col. 17, lines 40-45. The processing means 118 directs to stop recording action when the means 119 detects there is no data received from apparatus 124 (controlling the recording means so as to stop recording of data stream when the buffer is empty). See col.13, lines 7-14 & 18-23.

In claims 16, 22, 27, 34, 59 and 64, **Takeda et al.** discloses, in Fig.1, a playback apparatus 127 reproduces transport stream 108 (reproducing means for reproducing broadcast provider information). See col.10, lines 22-27.

In claims 29, 36 and 66, **Takeda et al.** discloses, in Fig.12, a cycle time register 26 that set a clock time (obtaining a standard reference time). A time stamp of the transmission is generated at means 23 based on a time value set by means 26 (generating a time stamp with the standard reference time). The input transport stream packet is added with the transmission time stamp at means 24 (means for adding the time stamp to partial data stream). See col.17, lines 20-45.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38-40, 42-44 and 68-70 are rejected under 35 USC 103(a) as being unpatentable over **Takeda et al.** (US Pat. No. 6,587,477 B1) in view of **Itakura et al.** (US Pat. No. 5,901,149).

In claims 38, 42 and 68, **Takeda et al.** disclose, in the receiver 125, the transport stream in data 122 is recorded at a recording apparatus 128 or reproduced into video/audio signals at reproducing apparatus 129 (recording and reproducing the data streams with the attached maximum bit rate). See col.13, lines 1-5. **Takeda et al.** does not disclose a decoder outputting data streams. **Itakura et al.** discloses, in Fig.1, a decoder 4 decomposes received packet to extract video and audio streams (a decoder outputting data streams). See col.9, lines 21-35. Therefore, it would have been obvious to use the decoder 4 of **Itakura et al.** into the receiver 125 of **Takeda et al.** so that the original video /audio signals can be retrieved and reproduced.

In claims 39, 43 and 69, the limitations of these claims have been addressed in claim 1.

In claims 40 and 44, the limitations of these claims have been addressed in claim 29.

In claim 70, the limitations of this claim have been substantially addressed in claim 29.

But **Takeda et al.** does not disclose a phase-locked loop circuit. **Itakura et al.** discloses, in Fig.1, a PLL circuit 12 (a phase-look loop circuit). See col.9, lines 30-35. Therefore, it would have been obvious to use the PLL circuit 12 of **Itakura et al.** in the transmitting apparatus 124 of **Takeda et al.** to generate a clock signal in synchronization with the time stamp.

*Allowable Subject Matter*

Claims 13, 19 and 56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

In claims 13, 19 and 56, the prior art does not disclose comparison means for comparing the time stamp and counted pulse value.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takeda et al. (US Pat. No. 6,577,646 B2) discloses Data Transmitting Apparatus, Data Receiving and Data Transmission Control Apparatus.

Lyons et al. (US Pat. No. 6,101,195) discloses Timing Correction Method and Apparatus.

Takeda et al. (US Pat. No. 6,567,421 B2) discloses Data Transmitting Apparatus, Data Receiving Apparatus and Data Transmission Control Apparatus.

Leske (US Pat. No. 5,473,385) discloses Clock Correction in a Video data Decoder Using Video Synchronization Signals.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 703 306-5445. The examiner can normally be reached on Monday-Friday 8:30 AM - 5:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 703 306-4744. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872-9314 for regular communications and 703 308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-4700.

Fax: (703) 872-9314

Hanh Nguyen

A handwritten signature in black ink that reads "HN Nguyen". The letters are stylized and cursive.

August 1, 2003

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